REMARKS

The Final Office Action, mailed February 22, 2010 ("Office Action"), and the Advisory Action, mailed March 25, 2010 ("Advisory Action"), have been reviewed and the Examiner's comments considered. Claims 1-60 are pending in this application. Claims 28-60 are withdrawn, and are canceled without prejudice or disclaimer by this amendment. Claim 1 is amended herein, support for which can be found in the application as originally filed at least on page 12, lines 8-30 and FIGS. 3-4.

Claim Rejections - 35 U.S.C. § 112

The Advisory Action states that "*[a]t least* the 112 1st paragraph rejection is maintained." (Advisory Action, item # 11, emphasis added.) Accordingly, each of the rejections in the Office Action are addressed herein.

Claims 1-27 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action alleges that "[t]he specification does not describe how the drag force provides substantially all of the energy for movement of the binding member." (Office Action, p. 2.) Additionally, the Office Action alleges that "it is unclear if the (sic) 'the movement' is the rotation of the binding member or the sliding of the needle." (Office Action, p. 2.)

Independent claim 1 has been amended to recite *inter alia*, "the binding member including at least one drag inducing member such that the at least one drag inducing member engages the needle during slidable receipt of the needle to create a drag force with the needle, *the drag force providing all of the energy for rotation of the binding member* relative to a longitudinal axis of the needle."

Applicants initially note that the Advisory Action alleges that "[t]here is no support in the specification for the drag force providing 'substantially all' of the energy." (Advisory Action, #11.) (Claim 1 is now amended to recite "all" of the energy rather than "substantially all" of the energy.)

Energy must be conserved.[1] The Instant Application indicates that all of the energy for rotation is derived from the drag force, as discussed in the following passage:

> Friction members 126 are configured for slidable engagement with stylet 106 between the retracted position and the extended position such that friction members 126 engage stylet 106 to create a drag force with stylet 106. It is envisioned that one or a plurality of friction members 126 may be employed.
>
> *The drag force* in conjunction with one of blocking members 116 and/or 117, *cause binding member 105 to move to a binding position* (FIG. 4). The force created by blocking members 116 and/or 117 acts in a direction opposite to the drag force. This causes a force couple, which moves binding member 105 to the binding position.
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> As stylet 106 is released from engagement with a stylet communicating surface 123, binding member 105 and a retainer 114 move to the binding position. Rotation of binding member 105 is no longer opposed by engagement with stylet 106 at stylet communicating surface 123. Thus, binding member 105, with retainer 114, is subject to inclination into the binding position. Rotation of binding member 105 causes binding surfaces 122 to frictionally engage stylet 106 to prevent movement thereof.

(Instant Application, p. 12, ll. 8-23, emphasis added).

Accordingly, the friction members 126 create the drag force. An equal and opposite force is exerted by the blocking member(s) 116, 117 in accordance with Newton's third law of motion[2] to

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[1] *See for example*, David Halliday, Robert Resnick, Fundamentals of Physics 149-178 (3rd ed. 1988).

[2] Newton's third law of motion states that "[w]henever a first body exerts a force F on a second body, the second body exerts a force –F on the first body. F and –F are equal in magnitude and opposite in direction."

create the force couple.[3] These forces cause the binding member 105 to move to the binding position. (*See*, Instant Application, for example, FIG. 4.) Accordingly, the blocking members 116, 117 do not provide energy to the system, and therefore the drag force must provide all of the energy for movement of the binding member as it is the only source of energy in the system.

The Office Action alleges that "it is unclear if the (sic) 'the movement' is the rotation of the binding member or the sliding of the needle." While Applicants believe that claim 1 was clear prior to the current amendments, in the interest of compact prosecution, claim 1 has been amended herein to clarify that "the drag force provid[s] all of the energy for rotation of the binding member."

For the reasons discussed above, Applicants request favorable reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph.

Claim Rejections - 35 U.S.C. § 102

Claims 1-13 and 15 -27 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over USPN 5,697,907 to Gaba ("Gaba"). Applicants respectfully traverse this rejection.

The Office Action fails to specifically point out which features of Gaba allegedly constitute several features of independent claim 1. Upon careful review of Gaba, Applicants are unable to locate at least the feature of "the drag force providing all of the energy for movement such that the drag force and a blocking member cause rotation of the binding member," as recited in independent claim 1. Gaba differently derives energy for rotation from a spring.

Accordingly, in view of the above, independent claim 1 is patentable over Gaba as Gaba does not show or describe each and every element. Dependent claims 2-13 and 15-27 are patentable because they depend from a patentable independent claim, and also because they recite features not

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[3] A force couple (couple) is "a pair of equal, parallel forces acting in opposite directions and tending to produce rotation." Couple. Dictionary.com. *Dictionary.com Unabridged.* Random House, Inc. http://dictionary.reference.com/browse/couple (accessed: March 10, 2010).

shown or described by the cited art. Therefore, Applicants request favorable reconsideration and withdrawal of the rejections under 35 U.S.C. § 102.

Claim Rejections - 35 U.S.C. § 103

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gaba in view of USPN 4,978,344 to Dombrowski et al. (hereinafter "Dombrowski"). Applicants respectfully traverse this rejection.

Without conceding the propriety of the asserted combination, or the assertions made in the Office Action with respect to the allegedly disclosed subject matter, Applicants submit that claim 14 depends from patentable independent claim 1, in view of the above, and is therefore patentable. Accordingly, Applicants request favorable reconsideration and withdrawal of this rejection under 35 U.S.C. § 103.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicants of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

This is filed with a RCE fee of $810, along with a two-month extension of time fee of $490. If further fees are due, please charge our Deposit Account No. 50-2191, under Order No. 101673.0057P4 from which the undersigned is authorized to draw.

Dated: July 22, 2010

Respectfully submitted,

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